

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

RAFAEL MELENDEZ,

Plaintiff,

v.

USA,

Defendant.

Case No. [15-cv-03103-VC](#)

**ORDER TO SHOW CAUSE**

A case management conference took place on November 10, 2015. Counsel for the defendant appeared, but counsel for the plaintiff did not. Accordingly, the plaintiff is ordered to show cause why his case should not be dismissed. There are two potential reasons for dismissal, and the plaintiff must address both in his response to the order to show cause:

1. In light of his lawyer's failure to appear at the case management conference, the plaintiff must explain why the case should not be dismissed for failure to prosecute under Rule 41(b) of the Federal Rules of Civil Procedure. Dismissal under Rule 41(b) would be with prejudice (and the government's counterclaim would be dismissed without prejudice).

2. The plaintiff must also explain why the case should not be dismissed for lack of jurisdiction, based on the government's assertion that it hasn't had the opportunity to consider the refund claim.

The plaintiff's response to the order to show cause is due November 20, 2015. If a response is not filed by that date, the case will be dismissed under Rule 41(b). The government's response is due December 4, 2015. Any reply by the plaintiff is due December 9, 2015. A hearing on the order to show cause will take place on December 17, 2015 at 10:00 a.m.

**IT IS SO ORDERED.**

Dated: November 10, 2015



VINCE CHHABRIA  
United States District Judge

United States District Court  
Northern District of California

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